



RE: Cornell-Dubilier Electronics , Inc. - February 13, 2009 104(e) Supplement

Ettinger, Jonathan to: Sarah Flanagan
Cc: "'Peter.kautsky@usdoj.gov'", "Sanoff, Robert"

08/06/2009 04:57 PM

From: "Ettinger, Jonathan" <JME@foleyhoag.com>
To: Sarah Flanagan/R2/USEPA/US@EPA,
Cc: "'Peter.kautsky@usdoj.gov'" <Peter.kautsky@usdoj.gov>, "Sanoff, Robert" <RSS@foleyhoag.com>

History: This message has been replied to .

Confidential - For Settlement Purposes - Subject to FRE 408

Sarah:

There was no formal settlement agreement executed with KWELM, but there was a letter memorializing CDE's agreement with KWELM. A copy of that letter is attached hereto and is submitted subject to the claim of confidential business information below.

Assertion of Claim of Confidential Business Information

CDE requests that EPA consider the attached letter agreement (the "letter") provided in this supplemental production to the request for information made by the U.S. Environmental Protection Agency, Region II ("EPA") dated September 30, 2008 as confidential. CDE identifies the following information in support of its claim of confidentiality:

- a. The letter in its entirety constitutes confidential business information.
- b. The letter is entitled to confidential treatment on a permanent basis.
- c. CDE has taken measures to guard against the disclosure of the letter to others. Access to the letter is limited within CDE and its former parent, and it is not disclosed to the public.
- d. The information in the letter has been provided to other parties, such as accountants, insurers and attorneys of CDE, only as necessary.
- e. CDE believes that no other federal agency has made a pertinent determination on the confidentiality of the letter.
- f. Disclosure of the contents of the letter would be harmful to CDE as it would negatively impact its ability to enter into confidential settlement agreements with other insurers.

Sincerely,

Jonathan M. Ettinger | Partner

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-----Original Message-----

From: Flanagan.Sarah@epamail.epa.gov [<mailto:Flanagan.Sarah@epamail.epa.gov>]

Sent: Friday, July 17, 2009 7:44 PM

To: Sanoff, Robert; Ettinger, Jonathan

Cc: Peter.kautsky@usdoj.gov

Subject: Cornell-Dubilier Electronics, Inc. - February 13, 2009 104(e) Supplement

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Robby and Jon

I've been reviewing the insurance settlements provided by your client Cornell-Dubilier Electronics, Inc. (CDE) pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, by letter dated February 13, 2009. It appears that one of the documents referenced in the letter was omitted from the CD enclosed with the letter.

Specifically, the letter states on the second page that CDE located one of the settlement agreements entered into with various London Market Insurers, and that it is enclosed. In the assertion of the claim of confidential business information on the same page, the letter makes reference to the agreement with KWELM, presumably the previously-referenced settlement. However, no such settlement is to be found on the CD.

The CD does contain five settlements, with four insurers: **Ex 4 - CBI** . It also contains the Exxon policies that we discussed on January 27, 2009.

Could you please enquire with CDE about the whereabouts of the KWELM/London Market settlement?

Thanks

Sarah

Sarah P. Flanagan

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[attachment "CORNELL-2009-104(e)-004719.PDF" deleted by Sarah Flanagan/R2/USEPA/US]